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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 694 OF 2006

Shri Vithu Dadu Kamble & ors. ... Appellants

V/s

Shri Baburao Govind Kamble & ors. ... Respondents

Mr. M.R. Suryawanshi for the appellants.

Mr. Sameer Tambekar for respondent Nos. 1(1) to 1(4).

CORAM: SMT. NISHITA MHATRE, J.

DATED: 20TH JULY, 2007.

P.C.:

1. The second appeal has been filed against the judgment of the appellate court which reverses the finding of the trial Court. The appellant claims that he was entitled to the suit property being City Survey No. 288 which was carved out from Gat No. 477. According to the plaintiff, Gat No. 477 is owned by him and, therefore, the City Survey No. 288 is also owned by him. The appellate Court has held that the plaintiff was unable to place on record a single document to show that City Survey No. 288 was carved out from Gat No. 477. Instead, there was a documentary evidence on record to indicate that City Survey No. 288 was carved

out of the Gat No. 480 which was owned by the defendant No.1.

2. The learned advocate for the appellant submits that the surveyor whose report was before the Trial Court has given contrary findings from those which were relied on by the defendants and his evidence ought to have been accepted. The city survey map was drawn on 21.2.1982 and since then the property City Survey 288 has been shown that it was part and parcel of Gat No. 480, admittedly owned by the defendant No.1. The plaintiff has not filed any appeal under the Maharashtra Land Revenue Code. Apart from this, the appellate Court has rightly considered the documents on record and found that there is no evidence at all showing that the appellant was entitled to C.T.S. No. 288. This is a finding of fact which need not be interfered with.

3. In my opinion, no substantial question of law arises in this appeal.

4. Appeal dismissed.

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